



DEPARTMENT OF INFORMATION TECHNOLOGY  
AND TELECOMMUNICATIONS DoITT

NYC Technology Center  
11 MetroTech Center  
Brooklyn, NY 11201  
(718) 403-8000

ALLAN H. DOBRIN  
Commissioner

BENJAMIN LIPSCHITZ  
Telecommunications Counsel  
Direct Dial: 718-403-8503  
Fax: 718-403-8504  
Email: bxl858@cscvm.ci.nyc.ny.us

September 21, 1999

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Counter TWA 325  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: In re Low-Volume Long-Distance Users, CC Docket No. 99-249, FCC 99-168 (1999)

Dear Mr. Caton:

Enclosed for submission please find an original plus four (4) copies of Comments of the City of New York Department of Information Technology and Telecommunications (DoITT), on behalf of the City of New York, in response to the Notice of Inquiry in the above matter.

Sincerely,

  
Benjamin Lipschitz

- c: The Honorable William E. Kennard, Chairman, Room 8-B201  
The Honorable Harold W. Furchtgott-Roth, Room 8-A302  
The Honorable Susan Ness, Commissioner, Room 8-B115  
The Honorable Michael K. Powell, Commissioner, Room 8-A204  
The Honorable Gloria Tristani, Commissioner, Room 8-C302

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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SEP 22 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Low-Volume Long-distance Users

CC Docket No. 99-249

To: The Commission

**COMMENTS OF THE CITY OF NEW YORK DEPARTMENT OF INFORMATION  
TECHNOLOGY AND TELECOMMUNICATIONS**

The City of New York Department of Information Technology and Telecommunications (DoITT), on behalf of the City of New York (City), respectfully submits these Comments in response to the Notice of Inquiry<sup>1</sup> by the Federal Communications Commission (Commission) in the above matter. DoITT is the New York City agency that is charged with, among other things, tracking telecommunications related expenses, and planning, formulating, coordinating and advancing telecommunications policies for the City.

**I. INTRODUCTION AND SUMMARY**

The City recommends that the Commission limit the pass-through of the presubscribed interexchange carrier charge (PICC) to those consumers that would realize a reduction in long-distance charges, which would occur only if a consumer uses long-distance telephone service and actually realizes a reduction in long-distance service charges. The justification and method for implementing the City's recommendation is discussed further in these comments.

Under the new scheme of access charges developed by the Commission in the access

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<sup>1</sup> In the Matter of Low-Volume Long-Distance Users, Notice of Inquiry, CC Docket No. 99-249 (rel. July 20, 1999).

charge<sup>2</sup> and universal service reform<sup>3</sup> proceedings, following from the Telecommunications Act of 1996 (Telecom Act), the Commission intended that consumers, including residential and single and multi-line business consumers, incur increases in their local telephone charges while realizing reductions in their long-distance charges<sup>4</sup>. The justification for this change in access charge cost recovery was, admirably, and in accordance with the pro-competitive and deregulatory tone of the Telecom Act, to phase in an economically rational common line rate structure, to eliminate per-minute common line charges and to reduce the support burden on high-volume long-distance and business customers. What has happened, however, is that consumers that make few or no long-distance calls are realizing significant increases in their local telephone charges with no compensating reduction from long-distance calls, resulting in a dramatic net increase in the cost of basic telephone service.

The City is concerned that while the current access charge regulations appear to nurture a more cost-causative basis for recovering local loop costs (e.g., recovering non-traffic sensitive costs with flat fee, opposed to per-minute, charges), these regulations unnecessarily and unfairly affect users of few or no long-distance telephone service. As a municipal entity that is interested in ensuring its citizens have access to basic telecommunications services, the City is concerned about the impact of a regulatory scheme that inequitably increases the cost of basic telephone

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<sup>2</sup> See In the Matter of Access Charge Reform Price Cap Review for Local Exchange Carriers Transport Rate Structure and Pricing, and End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order ("First Report and Order"), 12 FCC Red 15982 (1997), *aff'd sub nom.* Southwestern Bell Tel. Co. v. FCC, 153 F.3d 523 (8th Cir. 1998), and subsequent orders under CC Docket Nos. 96-262, 94-1, 91-213, 95-72.

<sup>3</sup> See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Red 8776 (1997), appeal pending in Texas Office of Public Utility Counsel v. FCC and USA, No. 97-60421 (5th Cir. 1997), and subsequent orders under CC Docket No. 96-45.

<sup>4</sup> First Report and Order at para. 105 ("[The Commission] believe[s] that this realignment of rates with costs will reduce the per-minute access charges assessed on IXCs and benefit consumers through lower long-distance rates, as well as create a pro-competitive local exchange market in which LECs will be able to compete more efficiently.")

service for its citizens. The City is also alarmed at the inequitable and dramatic increase in its own costs. Although the City is a large user of telecommunications services, its employees make few or no long-distance telephone calls, relative to their local telephone usage<sup>5</sup>. Yet the City in the past year has realized a huge increase in the cost of its basic telephone service resulting from just the PICC.

While the current regulations unfairly increase the cost of basic telephone service for citizens that make few long-distance telephone calls, this inequitable impact is further exacerbated by requiring the City--charged with providing municipal services to all its citizens--to spend hundreds of thousands of dollars in additional access charges. Yet the City makes few long-distance calls to realize any purported decrease in long-distance telephone charges. Because the City is not a business entity that can "pass-along" these increased costs to its customers, the City loses money that would otherwise be available to lower taxes and to provide additional municipal services to its citizens.

Accordingly, the City recommends that the Commission limit the pass-through of the PICC to those consumers that would realize a reduction in long-distance charges, which would occur only if the consumer is using long-distance telephone service and actually realizes a reduction in long-distance service charges.

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<sup>5</sup> For the 94,823 lines serving the Mayoral agencies of the City of New York, the long-distance charges were as follows (in millions): for 1997, \$1.933; for 1998 \$1.985 plus PIC charges of \$400 thousand; and for 1999, \$1.846 plus PIC charges of \$800 thousand. Long-distance minutes of usage were as follows (in millions): for 1997, 9.035; for 1998, 9.269; and for 1999, 11.969. For 1997, 1998 and 1999, local telephone charges amounted to \$16 million each year. Local minutes of usage were as follows (in millions): for 1997, 739.868; for 1998, 711.666; and for 1999, 1,041.809. Thus, while the City's long-distance telephone minutes of usage continue to represent less than 1.2 percent of the City's total telephone minutes of usage, the City is realizing increasing local telephone charges of \$800 thousand annually resulting only from PIC charges, with only a negligible realized decrease in total long-distance charges. Note that some of even the negligible decrease in long-distance charges is a result of corrected billing errors. (Numbers in this footnote are approximate, and 1999 numbers are representative for the year based on actual numbers through August.)

## **II. INEQUITABLE SHARING COSTS OF LOCAL LOOP**

Under Commission rules arising from the access charge reform proceeding, the PICC is assessed against long-distance carriers, and such assessment is permitted (though not required) to be passed along to the end user. What we are seeing, however, is that long-distance carriers are routinely passing along the PICC to the end user, effectively creating a combined subscriber line charge (SLC) and PICC, or a "Super-SLC." Because the long-distance carriers are treating the PICC as a 100 percent pass-through charge, the Commission should limit such permitted pass-throughs if the effect of a "Super-SLC" affects the ability of consumers to maintain telephone service, or otherwise inequitably affects telephone consumers. The "Super-SLC" inequitably affects low-volume users of long-distance telephone service.

The City recognizes that the cost of providing the local loop does not change with the number, length and type of telephone calls that customers make, i.e., the cost is not traffic-sensitive, and therefore, rational cost-causation principles require such costs to be recovered on a flat-charge basis. Because part of the expected use of the local loop is for long-distance calls, however, requiring those customers that make few or no long-distance calls to pay the same flat-fee as the heavy or regular long-distance users represents an inequitable sharing of the local loop costs. These low-volume long-distance users should not equitably be required to pay at all, or alternatively, as much, as the heavy or regular long-distance users, to recover the cost of the local loop.

## **III. INEQUITABLE SHARING COSTS OF LOCAL LOOP BY MUNICIPALITIES**

In previous comments submitted to the Commission in support of a Petition for

Reconsideration of the County of Los Angeles<sup>6</sup> in the Access Charge reform proceeding (Comments), the City raised the issue of the inequitable requirement that municipalities pay increased charges to allow the local telephone company to recover local loop costs on a more cost-causative basis. The City noted that "the PICC 'would impose a dramatic and unwarranted rate shock'<sup>7</sup> upon the City of New York because § 69.153 [of the Commission's rules<sup>8</sup>] would undoubtedly result in the City passing along the PICC to the City's residential and business consumers while such consumers are already required by the Commission to pay the PICC in addition to other new and/or increased Commission charges, in their own capacity."<sup>9</sup>

And while the Commission responded to the Petition by reducing the PICC in a proportionate amount to account for the technologically distinctive (yet functionally equivalent) Centrex and PBX telephone lines, two years later, the City has still realized this foreboded rate shock. In the past year, the City has recognized an annual increase of nearly 800 thousand dollars in the cost of basic telephone service resulting from just the PICC. Yet the City is a minimal user of long-distance telephone service. In fact, most employees of the City are technically precluded from using long-distance telephone service under a City protocol that requires a unique identification number to make long-distance calls, and such numbers are distributed to only a limited number of employees. The harsh effect of these increases in the costs of basic telephone service for the City is exacerbated by the fact that the City can only cover these additional costs by "passing them along" to its constituents, thereby diminishing monies that

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<sup>6</sup> Petition for Reconsideration of the County of Los Angeles, California, in the Matter of Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (rel. May 16, 1997), filed by the County of Los Angeles, California, on July 11, 1997 ("Recon Petition").

<sup>7</sup> Recon Petition at 1.

<sup>8</sup> 47 C.F.R. § 69.153.

<sup>9</sup> Comments of the City of New York filed Aug. 27, 1997, in response to the Recon Petition, at 2.

would otherwise be available to lower taxes and to provide additional municipal services. Also, many of the City's residential and single-line businesses are the low-volume long-distance users that are adversely affected by the present regulatory scheme because they are burdened by dramatic increases in their basic telephone bills from the PICC without a concurrent decrease in long-distance telephone charges; such consumers are already affected by a plethora of new surcharges and taxes imposed by the Commission under various telephone reform proceedings since the Telecom Act was enacted.

Because the effect of the PICC, and the cumulative effect of these other new surcharges and taxes, threatens affordable basic telephone service and inequitably affects low-volume long-distance telephone users, telecommunications carriers should be required to show that consumers have realized a reduction in long-distance charges before passing along the PICC to such consumers.

#### IV. TELECOMMUNICATIONS CARRIERS SHOULD SUBSTANTIATE A REDUCTION IN LONG-DISTANCE CHARGES TO RECOVER PICC FROM CONSUMERS

The public debate among local exchange carriers (LECs) and interexchange/long-distance carriers (IXCs) regarding access charges has reached a crescendo without due consideration for consumers. LECs contend they have adequately reduced access charges and IXCs contend they have passed along to consumers a reduction in long-distance charges that reflects the LECs' purported reduction in access charges. Because the PICC is assessed against IXCs, and from the perspective of the consumers' expectation the PICC is intended to accompany a reduction in long-distance charges (such expectation arising from the Commission's rulemaking<sup>10</sup>), the Commission should require that IXCs substantiate a reduction in consumers' long-distance

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<sup>10</sup> See footnote 4, *infra*.

charges where there has been a reduction in access charges, before allowing the IXC's to recover PICCs from consumers.

Substantiation for IXC's can be made by showing that a class of similarly situated consumers--e.g., residential or business, single-line business or multi-line business, and municipal or private sector, entities--on an average basis, have realized a reduction in long-distance charges, comparative in amount to a reduction in access charges for the IXC. For consumers that do not presubscribe to an IXC, LEC's should similarly be required to show that long-distance charges have been reduced for consumers, where there has been a reduction in access charges, before the LEC may be allowed to collect the PICC.

Thus, consumers that are low-volume long-distance users should not incur PICCs except in an amount comparative to their realized reduction in long-distance charges, and such realized reduction in long-distance charges should be substantiated by telecommunications carriers. Moreover, by requiring LEC's and IXC's to prove that the effect of lower access charges is a reduction in long-distance charges, both LEC's and IXC's will be motivated to reduce access charges and long-distance charges for consumers, or forfeit collection of the PICC.<sup>11</sup> Thus, the impact of all the new surcharges and taxes developed by the Commission pursuant to the Telecom Act will begin to be alleviated for consumers.

## V. CONCLUSION

To ensure that the Commission does not inequitably require telephone surcharges, such as the PICC, the City recommends that the Commission limit the pass-through of the PICC to those consumers that would realize a reduction in long-distance charges, which would occur only if the

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<sup>11</sup> Although the method described in this section for allowing PICC collection does not guarantee a reduction in either access charges or long-distance charges, at least consumers will not be burdened by the PICC while the telecommunications carriers argue over who is following FCC rules to reduce such access charges or long-distance charges.

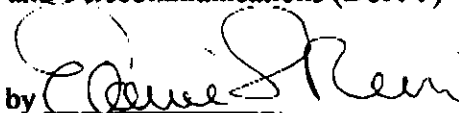


consumer is using long-distance telephone service and actually realizes a reduction in long-distance service charges. Telecommunications carriers should substantiate a reduction in consumers' long-distance charges where there has been a reduction in access charges, before allowing the IXCs to recover PICCs from consumers.

In this way, the Commission will be able to achieve the Telecom Act objectives, to phase in an economically rational common line rate structure, to eliminate per-minute common line charges and to reduce the support burden on high-volume long-distance and business customers. At the same time, consumers will not be inequitably affected by the Commission's realignment of rates with costs, which is intended to achieve these objectives.

Respectfully submitted,

City of New York  
Department of Information Technology  
and Telecommunications (DoITT)

by 

Elaine S. Reiss  
Deputy Commissioner  
and General Counsel

Benjamin Lipschitz  
Telecommunications Counsel

DoITT  
11 MetroTech Center, 3rd Floor  
Brooklyn, NY 11201  
718-403-8503

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